

**MEETING OF THE
GREENSBORO BOARD OF ADJUSTMENT
NOVEMBER 24, 2008**

The regular meeting of the Greensboro Board of Adjustment was held on Monday, November 24, 2008 at 2:00 p.m. in the City Council Chamber of the Melvin Municipal Office Building. The following Board members were present: Chair John Cross, Russ Parmele, Scott Brewington, Bill Strickland, Rick Pinto, Ryan Shell, and Alternate Member, Brian Pearce. Staff present were Rawls Howard, Zoning Administrator, Loray Averett, Zoning Services Coordinator, and Jerry Kontos, City Attorney's Office.

Chair Cross called the meeting to order and explained the policies and procedures of the Board of Adjustment. He further explained the manner in which the Board conducts its hearings and the method of appealing any ruling made by the Board. Vice Chair Cross also advised that each side, regardless of the number of speakers, would be allowed a total of 20 minutes to present evidence.

APPROVAL OF MINUTES OF LAST MEETING

Mr. Strickland moved to approve the minutes of the October 27, 2008 meeting, seconded by Mr. Brewington. The Board voted unanimously in favor of the motion.

SWEARING IN OF STAFF

Mr. Howard and Ms. Averett were sworn in as to all testimony given by them at today's meeting.

NEW BUSINESS

VARIANCE

- A) BOA-08-28: 822 SOUTH BENBOW ROAD KARLTON GASKIN REQUESTS VARIANCES FROM THE MINIMUM NUMBER OF REQUIRED OFF-STREET PARKING SPACES AND FROM THE PAVING REQUIREMENT FOR OFFICE USES. VIOLATION #1: A CHANGE IN USE FROM A RESIDENTIAL DWELLING TO A REAL ESTATE OFFICE WILL REQUIRE EIGHT (8) SPACES WHEN ONLY FOUR (4) SPACES CAN BE PROVIDED; THEREFORE A REDUCTION OF FOUR (4) SPACES IS REQUESTED. TABLE 30-5-3-1. VIOLATION #2: THE APPLICANT IS ALSO REQUESTING TO PROVIDE A GRAVEL PARKING LOT INSTEAD OF PROVIDING THE REQUIRED PAVING FOR AN OFFICE BUILDING USE. SECTION 30-5-3.4(C). PRESENT ZONING-CD-LO, BS-5, ROSS STREET-EAST LEE STREET. (GRANTED VIOLATION #1 FOR 6 PARKING SPACES, GRANTED VIOLATION #2 WITH CONDITIONS)**

Rawls Howard stated that the applicant is proposing to change an existing structure from a residential dwelling to a real estate office. The proposed office space requires 8 parking spaces, along with paving for the spaces, back-up aisles and associated travel flow.

Violation #1: The applicant is requesting a variance to provide 4 on-site spaces instead of 8 spaces.

Violation #2: The applicant is required to provide paving and is requesting to be exempt from the paving requirements.

The lot is located at the northwestern intersection of South Benbow Road and East Lee Street. The property is recorded in Plat Book 8, Page 63, Lot # 22 of the Nocho Park Subdivision Plat. The lot contains approximately 10,885 square feet. It is legally conforming in lot area and width. The applicant recently requested a rezoning for this property. The Zoning Commission approved the rezoning from RS-7 to CD-LO at their June 8, 2008 meeting. The building contains approximately 2,500 square feet. The minimum office parking requirement is based on one space per 300 square feet of gross floor area. The applicant is required to provide 8 spaces.

The applicant is required to pave the required parking spaces and travel flow. He is requesting to be permitted to use gravel instead of concrete, asphalt, or similar materials.

The site drawing shows the current location of the existing building and driveway access. The access is from East Lee Street. In his application, the applicant has made mention that he is interested in preserving significant trees that are located in and nearby areas that would require paving.

The applicant has shown on his plan that his access drive will be paved 10 feet beyond the right-of-way onto his property. The LO, Limited office District is primarily intended to accommodate low intensity medical, professional, administrative, and government office uses on small to mid-sized sites near residential areas.

Chair Cross asked if there was anyone wishing to speak on this matter.

Karlton Gaskin, the applicant, was sworn in and started the information provided by staff is accurate concerning his plans for the property. He is the owner of 822 Benbow Road which has been boarded up for the past 8 years and placed on the City's demolition list. He purchased the property within the past year and has rehabbed it up to City Codes and the property has received a Certificate of Occupancy in August of 2008. The house was built in 1929. He plans to move his office to the location with the possibility of opening the upper floors to a residential rental use in the future. He has no plans for other commercial businesses on the property. He feels that his request for gravel parking is consistent with the next door property and is in harmony with the surrounding area. He is also asking that only 4 gravel parking spaces be required as he will only use ¼ of the building for his small, one-man real estate office which will only average 1 or 2 clients per day. There are several old tree root systems that would be best served by not paving over them with concrete or asphalt. He hopes to be able to save the existing very large trees that have been on the property for many years and are very substantial in size.

Mike Cusimano, City Urban Forrester, was sworn in and stated that the trees on the property are very old and have begun to deteriorate to the point that, in his opinion, they are not worthy of saving. They are also growing and interfering with the Duke Energy lines overhead and due to past pruning practices, they have been compromised. There is also information that GDOT will be increasing their requirements for driveway connections.

No one came forward to speak in opposition to the request.

After some discussion, in regard to Violation #1 related to number of required parking spaces, Mr. Pinto moved that in the matter of BOA-08-28, 822 South Benbow Road, the findings of fact as presented by staff be incorporated into the findings and the Zoning Enforcement Officer be overruled and the variance be granted to allow six (6) on-site spaces, as opposed to eight (8) on-site spaces. In support of that motion shows that there are practical difficulties or unnecessary hardships that result from carrying out the strict letter of the ordinance. If the applicant complies with the provisions of the ordinance he can make no reasonable use of the property because there is no evidence in the record that 8 parking spaces can actually fit in a design on that property. This is property that was originally a residence and has been unoccupied and boarded up for the last 8 years and it has recently been rezoned to allow its use for a small business. For those reasons, it would be impossible to obtain the eight (8) parking spaces on that property. The hardship of which the applicant complains results from those unique circumstances and does not result from the applicant's own actions and, in fact, the owner of the property is doing the community a service by purchasing the property and attempting to put it to a beneficial use without tearing down what might be a significant structure in the area. The variance is in harmony with the general purpose and intent of the ordinance and preserves its spirit as it attempts to keep this residential neighborhood in good repair. The granting of the variance assures the public safety and welfare and does substantial justice and puts to use a home that has been boarded up and apparently in the past, has not been put to good use. There has been no testimony that the number of parking spaces would cause a hazard from either access or egress to Lee Street and there were no other safety concerns, seconded by Mr. Brewington, The Board voted 5-2 in favor of the motion. (Ayes: Cross, Pinto, Brewington, Shell, Pearce. Nays: Parmele and Strickland.)

In regard to Violation #2, Mr. Pearce moved that in the matter of BOA-08-28, 822 South Benbow Road, the findings of fact as presented by staff be incorporated into the findings and the Zoning Enforcement Officer be overruled and the variance be granted with the condition that the handicapped space is paved and designed per ADA requirements, the applicant's driveway must be paved 10 feet from the street right-of-way, and that the gravel parking spaces be fully contained, seconded by Mr. Brewington. The Board voted 5-2 in favor of the motion. (Ayes: Pinto, Brewington, Strickland, Shell, Pearce. Nays: Parmele and Cross.)

ABSENCES:

The absence of Clinton Turner was acknowledged.

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There being no further business before the Board, the meeting adjourned at 3:07 p.m.

Respectfully submitted,

John Cross, Chairman
Greensboro Board of Adjustment

JC/jd